REMARKS

Claim 1 is pending in this application. By this Amendment, claim 1 is amended. The amendment introduces no new matter. Reconsideration of the application based on the above amendment and the following remarks is respectfully requested.

Applicants appreciate the courtesies shown to Applicants' representative by Examiner Douglas in the February 2, 2007 personal interview. Applicants' separate record of the substance of the interview is incorporated into the following remarks.

The Office Action rejects claim 1 under 35 U.S.C. §§102(b) or 103(a) over WO 99/31006 to Lafleur. These rejections are respectfully traversed.

WO 99/31006 is understood to correspond to U.S. Patent Application Publication No. 2003/0008044. References cited below are made to the U.S. Patent Application Publication.

The Office Action asserts that Lafleur teaches filling the content under a temperature within a range of 50-60°C. This assertion is incorrect. Lafleur teaches a process involving pasteurizing a beverage, cooling the pasteurized beverage to a temperature below that at which containers are deformed under the action of excessive heat, sterilization of the containers and caps, filling of the sterilized receivers with cool pasteurized beverage, sealing the filled sterilized containers, and, optionally, further pasteurization of the filled and sealed container at a temperature below that at which the container is deformed under the action of excessive heat (see paragraphs [0012]-[0018] of Lafleur). Nowhere in Lafleur does the reference teach the specific feature of filling the content under a temperature within a range of 50-60°C.

The Office Action references claim 13, in which temperature ranges of 50-70° and 55-65° are recited. However, claim 13 is directed to the optional pasteurizing step being conducted at those ranges. The second pasteurizing step in Lafleur does not correspond to the

filling step at least because it is conducted after sealing the filled sterilized container, as specifically disclosed in paragraph [0018] of Lafleur.

Lafleur teaches that the initial pasteurized beverage is cooled to a temperature of between about 25°C and 60°C. Preferably the pasteurized beverage is cooled to a temperature between approximately 25°C and 50°C. More advantageously the pasteurized beverage is cooled to a temperature between approximately 25°C and 45°C. Even more advantageously, the pasteurized beverage is cooled to a temperature of about 35°C (see paragraph [0022] of Lafleur). However, the disclosed temperature ranges to which the beverage is cooled do not correspond to, nor can they reasonably be considered to have suggested, filling the content in the synthetic resin container while maintaining a temperature of the content within a range of 50°C to 60°C. Support for such a feature can be found, for example, in paragraphs [0010], [0011] and [0017] of Applicants' specification, as originally filed.

The beverage in Lafleur is cooled in a heat exchanger system before being transferred to the filler unit. No maintaining of a specific temperature range is taught after the point at which the beverage exits the heat exchanger system until the optional secondary pasteurization process, which does not correspond to a filling step, as indicated above.

Applicants' representative presented the above argument during the February 2 personal interview with the Examiner. Applicants' representative also argued that filling the container while maintaining a temperature of the content within a range of 50°C to 60°C could not reasonably be considered to be an implicit teaching of Lafleur. Lafleur teaches the liquid being cooled in a heat exchanger system then transferred to a filler unit, before filling individual containers, as mentioned above. In such a system, it would not be implicit that the temperature of the content would be maintained within a range of 50°C to 60°C, or even that

the filling temperature would correspond to the temperature to which the liquid is cooled in the heat exchanger, at least because the system would allow for further heat loss during the exchange of the liquid between the heat exchanger, the filler unit and the beverage container. The time required or allowed for any of these steps is not disclosed in Lafleur. In view of the multiple steps, of indefinite time, involving the transfer of liquid between various stations described in Lafleur, it is not reasonable to consider filling the content in the synthetic resin container while maintaining a temperature of the content within a range of about 50°C to 60°C to be taught by Lafleur.

For at least the above reason, the applied prior art reference does not teach, nor can it reasonably be considered to have suggested, the combination of all of the features positively recited in independent claim 1.

Accordingly, reconsideration and withdrawal of the rejection of claim 1 over Lafleur are respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claim 1 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

James A. Oliff
Registration No. 27,075

James E. Golladay, II
Registration No. 58,182

JAO:JEG/hms

Date: February 12, 2007

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION
Please grant any extension necessary for entry;
Charge any fee due to our Deposit Account No. 15-0461